

SMILEY WANG-EKVALL, LLP

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Tel 714 445-1000 • Fax 714 445-1002

SMILEY WANG-EKVALL, LLP

Philip E. Strok, State Bar No. 169296

pstrok@swelawfirm.com

Kyra E. Andrassy, State Bar No. 207959

kandrassy@swelawfirm.com

Timothy W. Evanston, State Bar No. 319342

tevanston@swelawfirm.com

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Telephone: 714 445-1000

Facsimile: 714 445-1002

Attorneys for Elissa D. Miller,
Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

In re

GIRARDI KEESE,

Debtor.

Case No. 2:20-bk-21022-BR

Chapter 7

**STIPULATION TO TURN OVER THE
DEBTOR'S FILES AND LAPTOP
COMPUTER AND PERSONAL DEVICE
TO THE TRUSTEE**

[No Hearing Required]

TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY JUDGE:

Elissa D. Miller, the chapter 7 trustee of the bankruptcy estate of Girardi Keese (the "Trustee"), by and through her attorneys, Smiley Wang-Ekvall, LLP, and Christopher Kamon ("Kamon"), by and through his attorneys, Skadden, Arps, Slate, Meagher & Flom LLP, enter into this *Stipulation to Turn Over the Debtor's Files and Laptop Computer and Personal Device to the Trustee* (the "Stipulation") as follows:

RECITALS

A. On December 18, 2020 (the "Petition Date"), an involuntary chapter 7 bankruptcy petition ("Petition") was filed against Girardi Keese ("Debtor"). As of the filing

1 of the Petition, the Debtor was counsel of record in a significant number of matters which
2 were undertaken on a contingency basis.

3 B. The petitioning creditors moved for the appointment of an interim trustee
4 which was granted by the Court by order entered January 5, 2021. The Trustee was
5 appointed as the interim chapter 7 trustee of the bankruptcy estate of Girardi Keese (the
6 "Estate") on January 6, 2021. The order for relief was entered January 13, 2021 and, the
7 same date, the Trustee was reappointed and has been serving in that capacity since.

8 C. The Trustee has obtained Court authorization to employ iDiscovery
9 Solutions ("IDS") as her computer consultants. IDS is assisting the Trustee with, among
10 other things, the collection, storage, analysis and processing of electronically stored
11 information and, as necessary, forensic analysis and other computer consulting services
12 as required by the Trustee.

13 D. Prior to the Debtor's bankruptcy case, Kamon was employed by the Debtor.
14 During his employment, the Debtor issued a laptop computer to Kamon to use remotely
15 for firm business (the "Laptop"). The Laptop remains in Kamon's possession.

16 E. The Trustee has requested that Kamon turn over possession of the Laptop
17 and all physical files and records of the Debtor in his possession, as the Laptop and
18 physical files and records of the Debtor are property of the Estate. Kamon has informed
19 the Trustee he used the Laptop for personal matters and stored certain personal
20 information on the Laptop. Kamon further contends that the Trustee is not entitled to
21 access his personal information stored on the Laptop.

22 F. Kamon has also informed the Trustee that he stored personal information
23 locally on the Debtor's desktop computer he used in the Debtor's office during his
24 employment with the Debtor. Kamon contends that in or around late 2019, the Debtor
25 began the process of upgrading certain software on its desktop computers in its office
26 and that information on these computers was at risk of being lost during the planned
27 upgrade of the Debtor's software. Kamon further contends that in order to preserve that
28 information, the Debtor's IT department copied the folders onto a device provided by

1 Kamon (the "Personal Device"). The Trustee asserts that the Personal Device contains
2 files and records of the Debtor that are property of the Estate and must be preserved.

3 G. To facilitate the turnover to the Trustee of the Laptop and the Personal
4 Device, physical files and records, and information stored on the Laptop and the Personal
5 Device, the parties have entered into this Stipulation.

6
7 **STIPULATION**

8 In light of the foregoing and effective upon entry by the Court of an order
9 approving this Stipulation (the "Effective Date"), the parties stipulate as follows:

10 1. As soon as practicable after the Effective Date, Kamon will turn over all
11 physical files and records of the Debtor in his possession;

12 2. Immediately upon execution of this Stipulation by all parties, Kamon will (a)
13 turn over the Laptop and the Personal Device to IDS to be held by IDS subject to the
14 terms and conditions of this Stipulation, and (b) IDS will create industry standard forensic
15 images of the Laptop and the Personal Device, using a forensic software program such
16 as FTK Imager, Paladin, EnCase Imager or comparable hardware/software tool that will
17 create complete forensic images of the entire hard drives. IDS will not review any files
18 stored on either the Laptop or Personal Device. IDS will not provide access to either the
19 Laptop or the Personal Device to the Trustee, nor will IDS discuss or provide any
20 information regarding the contents of either the Laptop or the Personal Device with the
21 Trustee, absent agreement of the Trustee and Kamon or order of the Court. At the
22 closing of the Debtor's bankruptcy case (Case No. 2:20-bk-21022-BR), to the extent IDS
23 is in possession of any forensic images, files, or other copies of the Laptop or Personal
24 Device, it will delete any digital copies of such items and return any physical copies to
25 counsel for Kamon. In addition, if the Laptop and Personal Device are still in IDS's
26 possession at that time, the Laptop and Personal Device will be returned to counsel for
27 Kamon. Counsel for Kamon will coordinate the return of any devices which are the
28 property of the Debtor's bankruptcy estate with counsel for the Trustee.

1 3. After completion of the forensic imaging in paragraph 2(b) above, the
2 Laptop and the Personal Device will remain in the possession of IDS and not be
3 accessed by the Trustee, IDS or anyone else acting on the Trustee's behalf until further
4 order of the Court.

5 4. After completion of the forensic imaging in paragraph 2(b) above, IDS will
6 also take the following steps:

7 (a) IDS will run industry standard scans of the Laptop and the Personal
8 Device to determine whether any data has been deleted from either the Laptop or
9 the Personal Device. The parties to this Stipulation reserve all rights regarding the
10 outcome of IDS' scans;

11 (b) IDS will generate a file listing from the Laptop and the Personal
12 Device. Because of the concern of viewing potential personal information, the file
13 listing will not contain actual content of the files; it will only contain the name of the
14 file, the file creation date, the last modified date, and the location it exists on the
15 Laptop or Personal Device;

16 (c) The file listing will first be provided solely to Kamon for review. To
17 the extent Kamon asserts that the file listing identifies any information which
18 should not be disclosed due to any privacy concern, privilege, immunity, or other
19 right, Kamon will redact such information. Kamon will provide the file listing and
20 any redaction(s) as well as the justification for such redaction(s) to Trustee within
21 seven (7) days of Kamon's receipt of the file listing from IDS.

22 (d) The Trustee will highlight on the file listing any file that she believes
23 is in scope for her review (the Debtor's document, files, and folders in the Laptop
24 and Personal Device relating to the Debtor) and should be produced. Such
25 highlighting shall not include what appear to be obviously personal files, however,
26 the Trustee reserves and does not waive her right to seek review and production
27 of any file not highlighted at a later date;

28

1 (e) To the extent that Kamon contends that a file designated by the
2 Trustee for review and production contains personal information that does not
3 overlap with the Debtor's business, Kamon shall notify the Trustee and provide a
4 personal information log. The Trustee reserves and does not waive her right to
5 contest such designation;

6 (f) To the extent that Kamon contends that a file designated by the
7 Trustee for review and production contains attorney-client privileged information,
8 Kamon shall notify the Trustee and provide a detailed privilege log. The Trustee
9 reserves and does not waive her right to contest such designation; and

10 (g) Except as provided in 4(e) and 4(f), the requested files shall be
11 produced to the Trustee.

12 5. After completion of the forensic imaging in paragraph 2(b) above, the
13 forensic images of the Laptop and the Personal Device will be stored in Kamon's
14 counsel's firm files.

15 6. The Trustee reserves all rights and claims to later request access to the
16 Laptop and the Personal Device, which may include information that Kamon asserts to be
17 personal, and Kamon reserves all rights and defenses to such request(s).

18 7. Notwithstanding any other provision of this Stipulation, the Trustee may
19 disclose any information which is required to be disclosed in a judicial or administrative
20 proceeding pursuant to a court order or other legal process which compels disclosure.
21 The Trustee shall provide Kamon reasonable notice of such disclosure such that Kamon
22 is able to raise any objections, defenses, or other arguments. If the Trustee or any of her
23 representatives shall, in the opinion of her/their counsel, stand liable for contempt or
24 otherwise be likely to suffer other censure or penalty for the failure to timely disclose,
25 Trustee will provide reasonable notice to Kamon of such intent to disclose such that
26 Kamon is able to raise any objections, defenses, or other arguments.

8. Nothing in this Stipulation shall be construed as a waiver of any rights,
privileges, or immunities, including, but not limited to, the Act of Production Immunity, by
either the Trustee or Kamon.

IT IS SO STIPULATED.

DATED: November 18, 2021

SMILEY WANG-EKVALL, LLP

By:



PHILIP E. STROK

TIMOTHY W. EVANSTON

Attorneys for Elissa D. Miller, Chapter 7
Trustee

DATED: November 18, 2021

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
LLP

By:



JACK P. DICANIO

MATTHEW J. TAKO

Attorneys for Christopher Kamon

SMILEY WANG-EKVALL, LLP

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Tel 714 445-1000 • Fax 714 445-1002

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

A true and correct copy of the foregoing document entitled (*specify*): **STIPULATION TO TURN OVER THE DEBTOR'S FILES AND LAPTOP COMPUTER AND PERSONAL DEVICE TO THE TRUSTEE** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) November 22, 2021 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (*date*) November 22, 2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

The Honorable Barry Russell
U.S. Bankruptcy Court
Roybal Federal Building
255 E. Temple Street, Suite 1660
Los Angeles, CA 90012

☐ Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 22, 2021

Date

Gabriela Gomez-Cruz

Printed Name

/s/ Gabriela Gomez-Cruz

Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

- Rafey Balabanian rbalabanian@edelson.com, docket@edelson.com
- Shraddha Bharatia notices@becket-lee.com
- Ori S Blumenfeld ori@marguliesfaithlaw.com, Helen@MarguliesFaithLaw.com;Angela@MarguliesFaithLaw.com;Vicky@MarguliesFaithLaw.com
- Evan C Borges eborges@ggtriallaw.com, cwinsten@ggtriallaw.com
- Richard D Buckley richard.buckley@arentfox.com
- Marie E Christiansen mchristiansen@vedderprice.com, ecfladocket@vedderprice.com,marie-christiansen-4166@ecf.pacerpro.com
- Jennifer Witherell Crastz jcrastz@hrhlaw.com
- Ashleigh A Danker Ashleigh.danker@dinsmore.com, SDCMLFiles@DINSMORE.COM;Katrice.ortiz@dinsmore.com
- Clifford S Davidson csdavidson@swlaw.com, jlanglois@swlaw.com;cliff-davidson-7586@ecf.pacerpro.com
- Joseph C Delmotte ecfcacb@aldridgepate.com, JCD@ecf.inforuptcy.com;jdelmotte@aldridgepate.com
- Lei Lei Wang Ekvall lekvall@swlawfirm.com, lgarrett@swlawfirm.com;gcruz@swlawfirm.com;jchung@swlawfirm.com
- Timothy W Evanston tevanston@swlawfirm.com, gcruz@swlawfirm.com;lgarrett@swlawfirm.com;jchung@swlawfirm.com
- Jeremy Faith Jeremy@MarguliesFaithlaw.com, Helen@MarguliesFaithlaw.com;Angela@MarguliesFaithlaw.com;Vicky@MarguliesFaithlaw.com
- James J Finsten jfinsten@hotmail.com
- James J Finsten jfinsten@lurie-zepeda.com, jimfinsten@hotmail.com
- Alan W Forsley alan.forsley@flpllp.com, awf@fklawfirm.com,awf@fl-lawyers.net,addy.flores@flpllp.com
- Eric D Goldberg eric.goldberg@dlapiper.com, eric-goldberg-1103@ecf.pacerpro.com
- Andrew Goodman agoodman@andylaw.com, Goodman.AndrewR102467@notify.bestcase.com
- M. Jonathan Hayes jhayes@rhmfirm.com, roksana@rhmfirm.com;matt@rhmfirm.com;rosario@rhmfirm.com;pardis@rhmfirm.com;russ@rhmfirm.com;david@rhmfirm.com;sloan@rhmfirm.com;bo shra@rhmfirm.com;rosario@rhmfirm.com
- Marshall J Hogan mhogan@swlaw.com, knestuk@swlaw.com
- Bradford G Hughes bhughes@Clarkhill.com, mdelosreyes@clarkhill.com
- Razmig Izakelian razmigizakelian@quinnemanuel.com
- Lewis R Landau Lew@Landaunet.com
- Craig G Margulies Craig@MarguliesFaithlaw.com, Vicky@MarguliesFaithlaw.com;Helen@MarguliesFaithlaw.com;Angela@MarguliesFaithlaw.com
- Peter J Mastan peter.mastan@dinsmore.com, SDCMLFiles@dinsmore.com;Katrice.ortiz@dinsmore.com
- Edith R. Matthai ematthai@romalaw.com, lrobie@romalaw.com
- Elissa Miller emiller@sulmeyerlaw.com, emillersk@ecf.inforuptcy.com;ccaldwell@sulmeyerlaw.com
- Eric A Mitnick MitnickLaw@aol.com, mitnicklaw@gmail.com
- Scott H Olson solson@vedderprice.com, scott-olson-2161@ecf.pacerpro.com,ecfsdocket@vedderprice.com,nortega@vedderprice.com
- Carmela Pagay ctp@lnbyb.com
- Ambrish B Patel apatelEI@americaninfosource.com
- Leonard Pena lpena@penalaw.com, penasomaecf@gmail.com;penalr72746@notify.bestcase.com
- Michael J Quinn mquinn@vedderprice.com, ecfladocket@vedderprice.com,michael-quinn-2870@ecf.pacerpro.com
- Matthew D. Resnik matt@rhmfirm.com, roksana@rhmfirm.com;rosario@rhmfirm.com;susie@rhmfirm.com;max@rhmfirm.com;priscilla@rhmfirm.com;pardis@rhmfirm.com;russ@rhmfirm.com;r ebeca@rhmfirm.com;david@rhmfirm.com;sloan@rhmfirm.com
- Ronald N Richards ron@ronaldrichards.com, morani@ronaldrichards.com
- Kevin C Ronk Kevin@portlloronk.com, Attorneys@portlloronk.com
- Jason M Rund (TR) trustee@srllawyers.com, jrund@ecf.axosfs.com
- William F Savino wsavino@woodsoviatt.com, lherald@woodsoviatt.com
- Gary A Starre gstarre@gmail.com, mmoonniiee@gmail.com
- Richard P Steelman rps@lnbyb.com, john@lnbyb.com
- Philip E Strok pstrok@swlawfirm.com, gcruz@swlawfirm.com;1garrett@swlawfirm.com;jchung@swlawfirm.com
- Boris Treyzon bt@treyzon.com, sgonzaes@actslaw.com
- United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov
- Christopher K.S. Wong christopher.wong@arentfox.com, yvonne.li@arentfox.com
- Timothy J Yoo tjy@lnbyb.com